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EXAMINER	
LU, KUEN S	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/529,380	KUROSAWA, YASUYUKI	
	Examiner	Art Unit	
	KUEN S. LU	2156	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 May 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The ACTION is responsive to Applicant's Amendment filed May 7, 2009. It is recognized that amendments were made to abstract, specification and claims 1, 11 and 21. As necessitated by the amendments, Examiner hereby withdraws objections to abstract and claims 1, 11 and 21. Also recognized is the national stage entry of PCT international filing, Examiner has corrected marking on PTO-326 and the ***Priority*** paragraph on this ACTION.

Priority

2. Application filed March 29, 2005 has a national stage entry of PCT/JP03/13395 of international filing date October 20, 2003 and further claims a foreign priority to Japan Application 2002-305418, filed October 21, 2002, and is acknowledged.

3. Please note claims 1-21 are pending.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.1. Claims 1-21 are rejected under 35 U.S.C. 102(e) as anticipated by **Kato** et al.

("INFORMATION PROCESSING APPRATUS AND METHOD, RECORDED MEDIUM, AND PROGRAM", U.S. Patent Application Publication 2002/0150383, filed 4/20/2001 and published 10/17/2002, hereafter "Kato").

As per claim 11, Kato teaches "A data processing method for reading data from and writing data on a storage medium, the storage medium having stored thereon a first data stream being represented by a video signal that has been encoded by a first encoding process" (See Fig. 1, [0008] and [0139]-[0141] where data contents are recorded on storage medium and playback information is supervised, and video and audio signal is encoded by an AV encoder and subsequently multiplexed and further encoded by packetizer), the method comprising steps of:

"acquiring first playlist information which is used to manage playback of the first data stream" (See [0152] where a controller creates playlist of the playback items of the AV data content streams encoded by the AV encoder);

"generating a second data stream by encoding the video signal by a second encoding process, which is different from the first encoding process" (See Fig. 1, [0008] and [0139]-[0141] where AV encoder encoded and multiplexer multiplexed audio signal are subsequently encoded by packetizer which is different from the AV encoder); and

"producing second playlist information based on the second data stream and the first playlist information so as to manage an order in which the second data stream is played back" (See [0157]-[0158] and [0170] where playback is reproduced as from a present time point in which AV signal is further encoded in ECC and modulation units and

written into write unit, and a playlist is selected for the playback in a clip).

As per claim 12, Kato teaches the data processing method of claim 11, further comprising steps of:
"generating the first data stream in parallel with the second data stream" (See [0490] where steps of medium contents processing include both chronological and in parallel or separately);
"storing the first data stream on the storage medium" (See [0152] where a database is stored with AV data and related information); and
"storing the second data stream on another storage medium" (See Fig. 1 and [0154] where data stream contents are stored on recording medium).

As per claim 13, Kato teaches the data processing method of claim 12, "wherein the step of generating the first data stream includes generating the first data stream such that the first data stream includes a plurality of data streams, and wherein the step of generating the second data stream includes generating the second data stream such that the second data stream includes a plurality of data streams" (See [0140] and [0162] in which AV stream comprises of data streams).

As per claim 14, Kato teaches the data processing method of claim 12, "wherein the step of acquiring the first playlist information includes acquiring the first playlist information that includes stream identifying information, which identifies each of more

than one stream included in the first data stream, and range information, which specifies the playback range of each said stream, and wherein the step of producing the second playlist information includes producing the second playlist information that includes stream identifying information, which identifies an associated one of more than one stream included in the second data stream, and range information, which specifies the playback range of each said stream, from the stream identifying information and the range information" (See [0161] where AV stream recorded is edited for creating a range of a data stream between a beginning and an ending points and a corresponding database of playlist and playback is also created accordingly).

As per claim 15, Kato teaches the data processing method of claim 14, "wherein the step of acquiring the first playlist information includes acquiring the first playlist information that specifies a playback effect on the first data stream, and wherein the step of producing the second playlist information includes producing the second playlist information that specifies another playback effect, which is different from the playback effect on the first data stream, for the second data stream" (See [0149] where feature information and feature pictures are acquired and stored in database).

As per claim 16, Kato teaches the data processing method of claim 15, "wherein the step of producing the second playlist information includes producing the second playlist information by specifying the playback effect on the second data stream according to the type of the playback effect on the first data stream" (See [0149] where

feature information and feature pictures are acquired and stored in database).

As per claim 17, Kato teaches the data processing method of claim 14, "wherein each said range information included in the first and second playlist information designates an I-picture, compliant with an MPEG standard, as a start position of the playback range" (See [0150] where feature information includes timestamp and address information of the I-picture).

As per claim 18, Kato teaches the data processing method of claim 17, further comprising a step of giving an instruction on how to generate I-pictures compliant with the MPEG standard,
"wherein the step of generating the first data stream and the step of generating the second data stream include generating the first and second data streams in accordance with the instruction such that each pair of I-pictures in the first and second data streams are associated with the same video picture" (See [0158] where controller reads out data from an I-picture whose address is closest to the address of the AV stream for packetizer and other units to process).

As per claim 19, Kato teaches the data processing method of claim 12, further comprising steps of:
"acquiring the video signal" (See Fig. 1, elements 12 and 11 where audio and video signals are acquired, respectively); and

"acquiring an audio signal" (See Fig. 1, elements 12 and 11 where audio and video signals are acquired, respectively);

"wherein the step of generating the first data stream and the step of generating the second data stream include generating the first and second data streams such that each said stream further includes the audio signal" (See Fig. 1, [0008] and [0139]-[0141] where data contents are recorded on storage medium and playback information is supervised, and video and audio signal is encoded by an AV encoder and subsequently multiplexed and further encoded by packetizer).

As per claim 20, Kato teaches the data processing method of claim 11, further comprising steps of:

"receiving an instruction on the playback order of the first data stream" (See Fig. 1 and [0147] where user command to the controller via an input terminal); and

" writing the first playlist information, the second data stream and the second playlist information on the storage medium" (See [0157]-[0158] and [0170] where playback is reproduced as from a present time point in which AV signal is further encoded in ECC and modulation units and written into write unit, and a playlist is selected for the playback in a clip);

"wherein the step of acquiring the first playlist information includes producing the first playlist information in accordance with the instruction, and wherein the step of generating the second data stream includes generating the second data stream based on the first data stream" (See[0157]-[0158] and [0170] where playback is reproduced as

from a present time point in which AV signal is further encoded in ECC and modulation units and written into write unit, and a playlist is selected for the playback in a clip).

As per claims 1-10, the claims are directed to the data processor for reading data from and writing data on a storage medium for functions of claims 11-20, sequentially respectively and correspondingly and therefore rejected along the same rationale.

As per claim 21, the claim is directed to a recording medium having stored thereon a computer program which is executed by a computer in reading data from and writing data on a storage medium for functions of claim 11 and therefore rejected along the same rationale.

Response to Arguments

5. Applicant's arguments filed May 1, 2009 have been fully considered, please see discussion below (Please note text below **high-lighted** is Applicant's **Remarks/Arguments**).

Application No.: 10/529,380

REMARKS

Claims 1-21 are pending in the application. Claims 1, 11, and 21 have been amended to correct informalities therein. Favorable reconsideration of the application, as amended, is respectfully requested.

I. AMENDMENTS IN THE SPECIFICATION

The Specification is object to because the section title of CROSS REFERENCE TO RELATED APPLICATION is not included for describing foreign priority and incorporated cross reference. Applicant has amended the Specification so as to include said section title. Withdrawal of the objection is respectfully requested. The paragraph appearing at page 24, lines 4-18 in the specification has also been amended to correct typographical errors therein. Entry of said amendment is respectfully requested.

II. AMENDMENTS IN THE ABSTRACT

The Abstract is objected to because it contains the word "invention." Applicant has amended the Abstract so as to delete the word "invention" therefrom. Withdrawal of the objection is respectfully requested.

III. CLAIM OBJECTIONS

Claims 1, 11, and 21 are objected to due to informalities contained therein. Specifically, the Examiner contends that the phrase "reading and writing data from/on a storage medium" is not clear. In accordance with the interpretation of the Examiner, Applicant has amended claims 1, 11, and 21 so as to recite "reading data from and writing data f-rein/on a storage medium." Withdrawal of the objection is respectfully requested.

Applicant acknowledges, with appreciation, the acknowledgement by the Examiner that claims 1-21 are of statutory subject matter under 35 USC §101.

AMENDMENT filed May 7, 2009 has been entered. Objections previously made to abstract and claims 1, 11 and 21 has been withdrawn. Examiner also acknowledged

this application's national stage entry of PCT/JP03/13395 of international filing date October 20, 2003 and further claims a foreign priority to Japan Application 2002-305418, filed October 21, 2002.

IV. REJECTION OF CLAIMS 1-21 UNDER 35 USC §102(e)

Claims 1-21 stand rejected under 35 USC §102(e) as anticipated by Kato et al. (US Patent Application Publication 2002/0150383). Applicant respectfully traverses the rejection.

i. Introduction

Claim 11 recites, interalia, that a storage medium has stored thereon a first data stream being represented by a video signal that has been encoded by a first encoding process. A second data stream is also generated by encoding the video signal by a second encoding process, which is different from the first encoding process. Independent claims 1 and 21 recite similar features.

In the context of the present invention, the "different encoding processes" refer to video data encoded at different data rates. (See page 24, lines 8-11 of the present specification.) For example, the first data stream may be a video signal that has been encoded at a low data-rate, and the second data stream may be a video signal that has been encoded at a high data-rate.

By using the second data stream (e.g., high data-rate stream) and first playlist information used to manage playback of the first data stream (e.g., low data-rate stream), a second playlist information is produced that is used to manage an

order in which the second data stream is played back.

The generation of two playlists alleviates the burden on the user of having to generate playlist information for each of the first data stream and the second data stream, as a separate playlist is required for each data stream even if the same video was stored as multiple moving picture streams with different data rates. (See page 5, lines 3-8 of the present specification.)

ii. Kato et al. does not teach the generation of a second data stream by encoding the video signal by a second encoding process, which is different from the first encoding process, as recited in claim 11

Kato et al. is directed to an apparatus and method for recording a single AV stream to a recording medium, and for managing the playback of said recorded AV stream via a database file generated from the single AV stream. Figure 1 of Kato et al., reproduced below, illustrates the recording/reproducing apparatus.

FIG.1

An AV data stream is input (via video input 11 and audio input 12), encoded (via AV encoder 15), and multiplexed (via the multiplexer 16). The multiplexed stream is then packetized (via a packetizer 19) and ultimately written to the recording medium 100. More specifically, the packetizer 19 encodes the input multiplexed stream into an AV data stream composed of source packets in accordance with an application format of the recording medium 100 on which the stream is ultimately written. (Kato et al., [0141].) Hence, the packetizer 19 is performing a process on the AV data stream so as to record it in a compliant format on the

recording medium 100.

Kato et al. further teaches that a user may control the playback of the AV data stream by the use of an information database file. Specifically, the multiplexed stream is also sent from the multiplexer 16 to a controller 23 that creates application database information based on information input by the user via a user interface 24 (e.g., information specifying the playback domain, bookmarks, resuming points, etc.) in relation to the AV signals. (Kato et al., [0151-0152].) This application database information is recorded as a file on the recording medium. Subsequently, to initiate reproduction of the recorded AV data, the controller 23 first retrieves the application database information file and uses it in conjunction with the user interface 24 for purposes of allowing the user to control the playback of the recorded AV data (ex., initiate random access playback or special playback). (Kato et al., [0154-0155].)

Kato et al. does not teach or disclose the generation of a second data stream by encoding a video signal by a second encoding process, which is different from the first encoding process, as recited in claim 11. Rather, as described above, Kato et al. discloses that the multiplexed stream (19) is packetized so as to comply with the format of the recording medium 100. While the packetizer 19 does perform a packetizing process on the AV data stream previously output by the AV encoder, packetizer 19 does not perform an encoding process within the meaning of the term as defined by the specification so as to change the encoding

data rates of the video signal. Hence, Kato et al. only teaches a first data stream that has been encoded by a first encoding process.

With respect to the above remarks, Examiner respectfully agrees Applicant's position that different encoding processes are based on data rate and data streams are so generated based on encoding processes. Examiner further respectfully submits that the claim language is interpreted broadly and reasonably, in light of specification without reading in the specification. Specifically, using data rate as basis for encoding data streams does not seem being claimed in the language. As for an encoding process, the term encoding can also be broadly interpreted. Examiner respectfully submits that a process involving any data conversion can be reasonably interpreted as an encoding process, without specifically using the term "encoding" or on the basis of data rate. Therefore, encoding AV signal stream is a first encoding process and packetizing the multiplexed encoded data stream is interpreted as a second encoding process because both processes convert data stream from one format to another. This Examiner does respectfully agree that encoding processes in specification are specifically defined. However, as an ordinary skilled in the art, Examiner broadly interprets the encoding process and the interpretation is also well supported by generic dictionary or computer dictionary.

Furthermore, it is noted that to the extent that the data stream output by the packetizer 19 is considered to be a second data stream, Kato et al. fails to teach that the data stream output by the AV encoder 15 (i.e., first data stream) is stored

on the storage medium 100, as recited in the claim 11. The AV data stream output by the AV encoder (i.e., the first data stream) of Kato et al. is converted by the packetizer 19 and is not stored. That is, only the AV data stream output by the packetizer 19 (i.e., the second data stream) is stored on the recording medium 100.

Accordingly, Applicant respectfully submits that Kato et al. fails to teach or suggest all of the features of claim 11 and corresponding independent claims 1 and 21.

iii. Kato et al. does not teach the production of second playlist information, as recited in claim 11.

Because Kato et al. fails to teach the claimed second data stream encoded by the second encoding process, Kato et al. fails to teach the production of second playlist information, which is based in part on the second data stream.

That is, the application database information file (i.e., the first playlist information) is generated solely from the multiplexed stream (i.e., the first data stream), and it is this file that is used to manage the order in which the stream recorded on the recording medium is played back. Because there is no second data stream, there is simply no need for a second playlist information.

Accordingly, Applicant respectfully submits that Kato et al. fails to teach or suggest all of the features of claim 11 and corresponding independent claims 1 and 21.

With respect to the above remarks, Examiner respectfully the claim language describes a first playlist information and a second playlist information. Examiner respectfully noted what is produced is information about playlist. On the second playlist information which is selected for playing back in a clip applying for the encoded, modulated and recorded. Therefore the selected playlist information is seen as producing a second playlist information.

For at least the above reasons, Applicant respectfully submits that Kato et al. does not teach or suggest each and every feature of the invention as recited in independent claims 1, 11, and 21, or the claims dependent therefrom. Applicant respectfully requests that the rejection be withdrawn.

VI. CONCLUSION

Accordingly, all claims 1-21 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Without specifically repeating the rejections as made earlier, Examiner respectfully submits that rejections made to the claims seems to be based on broadly interpreted claim language, however, it is reasonably interpreted in view of further clarification of some major subject matter such as encoding seems to be needed.

References

6.1. The prior art made of record

A. U.S. Patent Application 2002/0150383

6.2. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

B. U.S. Patent Application 2002/0135608

C. U.S. Patent Application 2002/0106189

D. U.S. Patent Number 6,360,368

Conclusions

7. THIS ACTION IS MADE FINAL.

The Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is 571-272-3574 for faster service.

Contact Information

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to KUEN S. LU whose telephone number is (571)-272-4114. The examiner can normally be reached on Monday-Friday (8:00 am-5:00 pm). If attempts to reach the examiner by telephone pre unsuccessful, the examiner's Supervisor, Pierre Vital can be reached on (571)-272-4215. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for Page 13 Published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should You have questions on access to the Private PAIR system; contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, please call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KUEN S. LU /Kuen S Lu/ Art Unit 2156

Primary Patent Examiner July 16, 2009